

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JEFFERY KRAUSE,

Plaintiff,

v.

Case No. 13-C-1285

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

Plaintiff has filed a complaint seeking review of the decision of the Commissioner of Social Security. Plaintiff has requested leave to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915. An indigent plaintiff may commence a federal court action, without paying required costs and fees, upon submission of an affidavit asserting inability “to pay such fees or give security therefor” and stating “the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1). Plaintiff filed the required affidavit of indigence. Upon review of that affidavit, it appears that plaintiff is receiving retirement income of \$1,795 per month, resulting in annual income that exceeds the United States Department of Health and Human Services poverty guidelines by more than \$6,000. *See* <http://aspe.hhs.gov/poverty/13poverty.cfm#thresholds> (visited on November 15, 2013). He has \$1,437 in his various bank accounts, and substantial equity in his home. The home is valued at \$394,900, and he owes \$327,845 on his mortgage, a difference of approximately \$67,000. He notes his home is up for sale, and there have been no offers. He also owns a 2008 Chevy Tahoe worth \$20,000 and a 2000 Cadillac CTS worth \$3,000, and his spouse owns a small retirement account.

Given his income and assets, it appears that Krause could afford to pay the \$400 filing fee. Although Krause lists expenses totaling \$6,442.70, it should be noted that the expenses appear inordinately high for a two-person household where neither party is presently working. Krause's fuel expense is listed at \$500 per month, home maintenance costs of \$855.64 per month, and groceries in excess of \$1000 per month. Krause also claims substantial monthly expenses for cable, internet, and a cell phone in addition to their home phone. Although the listed house payment is in excess of the stated income, it seems doubtful he is actually making the payment given his overall financial situation. In sum, it appears that Krause has either grossly overstated his expenses or he is living well beyond his needs. In either case, the fact that his resulting expenses are far in excess of his income is not a reason to waive the filing fee. He has sufficient funds readily available to pay the fee. Accordingly, the motion is denied. Krause is directed to pay the filing fee within the next ten days or the action will be dismissed.

SO ORDERED this 15th day of November, 2013.

s/ William C. Griesbach

William C. Griesbach, Chief Judge
United States District Court